STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**04/16/01**	Bill No:	**SB 640**
Tax:	**Sales and Use**	Author:	**Knight, et al.**
Board Position:	**Support**	Related Bills:	**SB 76 (O'Connell)** **AB 1575 (B. Campbell)**

BILL SUMMARY

This bill would extend the existing sales and use tax exemption for the sale or use of space flight property to include equipment and materials used to construct ground support facilities for space flight operations.

ANALYSIS

Current Law

Under existing law, a sales tax is imposed on retailers for the privilege of selling tangible personal property in this state. The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased in this state. Either the sales tax or the use tax applies with respect to all retail sales and purchases of tangible personal property, unless the sale and purchase is specifically exempted.

Under existing law, Revenue and Taxation Code Section 6380 provides a sales and use tax exemption for the sale or use of qualified property used in space flight. "Space flight" is defined under Section 6380 to mean any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind. "Qualified property" consists of:

- Tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof.
- Tangible personal property to be placed or used aboard any facility, system vehicle, satellite, or station described above, regardless of whether that property is to be ultimately returned to this state for subsequent use, storage, or other consumption.
- Fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

Proposed Law

This bill would amend Section 6380 of the Sales and Use Tax Law to add to the definition of qualified property any tangible personal property in the form of equipment and materials used to construct facilities designed to launch, manufacture, fabricate, assemble, or process equipment that facilitates the renovation, rehabilitation, or reconstruction of commercial space launch sites.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background

Section 6380 was added to the Sales and Use Tax Law in the 1993 Legislative Session by SB 671 (Alquist, et al., Ch. 881). The exemption provided by Section 6380 was for the sale and use of space flight property originating at Vandenburg Air Force Base and contained a sunset provision of January 1, 2004. At that time, the bill was addressing Motorola Company's IRIDIUM™ project; a development of a global wireless communications network that would combine the worldwide reach of 66 low-earth-orbit satellites with land-based wireless systems to enable subscribers to communicate using handheld telephones and pagers virtually anywhere in the world. Vandenburg Air Force Base in Santa Barbara County was the only base in the United States equipped for launching these types of satellites, because of the required orbit. Since this exemption was created, deployment of its 72-satellite constellation, including in-orbit spares, has been completed (40 of those through a total of 8 launches from Vandenburg). Motorola completed the IRIDIUM™ project and introduced it to the world on November 1, 1998.

Section 6380 was amended during the 1998 Legislative Session by AB 2798 (Machado, et al., Ch. 323). That bill removed the requirement that the space flight property originate from Vandenburg Air Force Base and also removed the sunset date provision.

Senate Bill 1582 (O'Connell), introduced during the 2000 Legislative Session, contained the same provisions as this bill. SB 1582 failed to pass out of the Senate Revenue and Taxation Committee. The Board voted to support SB 1582.

COMMENTS

1. **Sponsor and Purpose.** According to the office of the author, who is also the sponsor of the bill, this measure is intended to demonstrate California's intent to ensure that the commercial space industry in California grows and is not lost to competitive states or countries. Currently, FAA launch facilities exist not only in California, but also in Virginia, Florida, New Mexico and Alaska. In addition to launch sites available in the United States, launch sites are available in other countries as well. Many of the launch sites available outside California offer tax incentives for commercial launches.
2. **Summary of April 16 amendments.** Language was added to this bill to preclude a taxpayer from claiming both the sales tax exemption and the manufacturers investment credit for income tax on the same property.
3. **Property covered by proposed exemption.** The current exemption provided by Section 6380 covers only the property that has space flight capability, property to be placed or used aboard property that has space flight capability, or fuel used exclusively for space flight.

This bill would expand the exemption to cover equipment and materials used to construct, reconstruct, or improve new or existing facilities designed to launch, manufacture, fabricate assemble or process property to be used for assembly, launch, or transport of space flight property. This could include property such as tools, machinery and equipment, containers, and vehicles used to transport property.

The proposed exemption would provide an exemption from the gross receipts for the sale of, or the storage, use or other consumption in this state of, materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, or process qualified property.

Contracts to furnish and install items such as runways, launch pads, and buildings are construction contracts. Generally, the contractor is regarded as the consumer of materials and the retailer of fixtures under a construction contract. A contractor would normally pay tax on the purchase price of materials consumed on the job and report tax on the retail price of fixtures sold under the construction contract. This bill would allow contractors to avoid paying tax on the purchase of materials consumed and reporting tax on fixtures sold when a construction contract is performed for the purpose of building qualified property.

4. **Related Legislation.** Two similar bills have been introduced this session. Senate Bill 76 (O'Connell) would provide a sales and use tax exemption for the sale of any tangible personal property to be used for the purpose of assembly, launch, or transport of space flight property and tangible personal property used in spaceport operations. Assembly Bill 1575 (B. Campbell) would provide a sales and use tax exemption for the sale of any equipment and materials used to construct ground support facilities. The Board voted to *support* both SB 76 and AB 1575.

COST ESTIMATE

Some costs would be incurred in computer programming, return revisions and return processing. These costs are expected to be absorbable.

REVENUE ESTIMATE

Under current law, qualified property used in space flight is exempted from taxes. Qualified property is defined as tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof. Qualified property is also defined as tangible personal property to be placed aboard any facility, system, vehicle, satellite, or station, regardless of whether that property is to be returned to this state for subsequent use, storage or other consumption. Also exempted is fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Under this proposal, tangible personal property used for construction of facilities that are designed to launch, manufacture, fabricate, assemble, or process equipment that facilitates the reconstruction of commercial space launch sites will be exempted from the sales and use tax.

Based upon figures supplied by the industry, the total amount of expenditures that would qualify under this bill over the next three years is expected to be $126 million for 2001, $52 million for the calendar year 2002, and $15 million for the calendar year 2003. Though the exemption may not apply to 2001, depending upon the operative date, the figures are supplied as a reference to anticipated industry expenditures.

Revenue Summary

The revenue impact from exempting the estimated expenditures from the state and local sales and use tax over the next three years would be as follows:

	Revenue Loss		
	2001	2002	2003
State Loss**	$6.0 million	$2.6 million	$0.8 million
Local Loss (2.25%)	$2.8 million	$1.2 million	$0.3 million
Transit Loss (0.67%)	$0.8 million	$0.3 million	$0.1 million
Total	$9.6 million	$4.1 million	$1.2 million

* While the tax rate for 2001 is 4.75%, the tax rate for 2002 and 2003 is assumed to be 5%.

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